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REVIEW AND IMPLEMENTATION OF THE CONCLUDING DOCUMENT OF THE TWELFTH SPECIAL SESSION OF THE GENERAL ASSEMBLY: REGIONAL DISARMAMENT

Report of the Secretary-General

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I. INTRODUCTION

1. On 15 December 1989 the General Assembly adopted resolution 44/117 B on regional disarmament, paragraphs 5 to 9 of which read as follows:

> "The General Assembly,
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> "...
>
> "5. Encourages all States to consider and develop, as far as possible, regional solutions in the matter of arms reduction and disarmament;
>
> "6. Invites all States and regional institutions associated with regional disarmament efforts to report thereon to the Secretary-General;
>
> "7. Requests the United Nations to lend its assistance to States and regional institutions that may request it, with the view to the institution of measures within the framework of an effort for regional disarmament;
>
> "8. Requests the Secretary-General to keep the General Assembly regularly informed of the implementation of resolutions on regional disarmament and of the activities which the Secretariat, in particular the Department for Disarmament Affairs, and the United Nations Institute for Disarmament Research are conducting in the field of regional disarmament;
>
> "9. Decides to include in the provisional agenda of its forty-sixth session the item entitled "Regional disarmament: report of the Secretary-General".

2. In pursuance of paragraph 8 of the resolution, the activities of the Department for Disarmament Affairs and of the United Nations Institute for Disarmament Research (UNIDIR) are described in sections II and III of the present report. With respect to paragraph 7 of the resolution, the Secretary-General has not so far received any requests from States or regional institutions for assistance concerning efforts for regional disarmament. In connection with paragraph 6 of the resolution, the Secretary-General has, to date, received replies from Belgium, Bulgaria, China, Czechoslovakia, Finland, New Zealand, Peru and Thailand. These replies are reproduced in section IV of the present report. With reference to regional institutions associated with regional disarmament efforts, those institutions were informed by the Secretariat of the General Assembly's invitation, as reflected in paragraph 6 of the resolution. The Secretary-General has not received a reply from any of those institutions to date.

II. ACTIVITIES OF THE SECRETARIAT

3. During the period covered by this report, the Secretariat has undertaken the following activities relating to General Assembly resolution 44/117 B on regional disarmament:

(a) Within the framework of the Training Programme of its Regional Centre for Peace and Disarmament in Africa, the Department for Disarmament Affairs organized a workshop for senior African military and civilian officials on conflict resolution, crisis prevention and management and confidence-building among African States. The workshop, which was convened in cooperation with the Government of the United Republic of Tanzania and its Centre for Foreign Relations, was held at Arusha (United Republic of Tanzania), from 5 to 16 March 1990. The workshop was attended by senior military and civilian officials of 29 African States, drawn largely from areas of conflict or tension in the region. Senior officials from the host Government, the United Nations and the Organization of African Unity, as well as the experts from within and outside the region,, addressed the conference, whose primary objective was to promote the peaceful settlement of disputes and the non-use of force in inter-State relations in Africa.

(b) The Department for Disarmament Affairs also organized a workshop on conflict resolution, crisis prevention and management and confidence-building for senior military and civilian officials from the Member States of the 10-nation Economic Community of Central African States (ECCAS). The workshop was held at Yaoundé, from 17 to 21 June 1991 and was addressed by senior officials from the host Government, the United Nations, the Economic Community of Central African States as well as other experts from within and outside the region. Participants adopted a final document in which they, inter alia, recommended the conclusion of a non-aggression pact and the establishment, under United Nations auspices, of a permanent consultative committee to promote security in the Central African subregion (see A/46/307).

(c) The United Nations Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean, located at Lima, continued to operate, within available funds, a programme of activities that included publication of a book on common security, the publication of a quarterly Bulletin, dissemination of information, and participation in conferences and seminars on issues relating to peace, security, disarmament and development.

(d) A Symposium on Regional Security in Latin America was held on 6 June 1990 under the auspices of the Regional Centre for military attachés of the region accredited in Lima, Peruvian military officers and Peruvian Foreign Ministry officials. The Symposium was chaired by General Francisco Morales Bermúdez, former President of Peru. From 25 to 26 July 1990, the Centre, in cooperation with the Argentine Council for Foreign Relations and the United Nations Information Centre in Buenos Aires, organized a seminar on disarmament and arms limitation issues, which was attended by government officials, diplomats and representatives from educational institutions, non-governmental organizations, the armed forces and university students.

(e) From 29 to 31 January 1990, the Regional Centre for Peace and Disarmament in Asia and the Pacific organized its first Regional Meeting on Confidence-Building Measures in the Asia-Pacific Region in Kathmandu. The meeting focused attention on two subregions, namely, South Asia and North-East Asia. A second Regional Meeting on the same subject, which was held in Kathmandu from 24 to 26 January 1991, focused attention on the South-East and North-East Asian subregions. Both regional meetings were attended by representatives from Governments, research institutes and non-governmental organizations. Both meetings were opened by the Under-Secretary-General for Disarmament Affairs. Through in-depth and candid discussions both in plenary meetings and in working groups, participants examined the role of confidence-building measures and their feasibility in Asia and the Pacific, particularly the subregions under consideration, and many positive views were offered.

(f) A Regional Disarmament Workshop for Asia and the Pacific took place from 28 January to 1 February 1991 in Bandung.

It was organized by the Department for Disarmament Affairs in cooperation with the Government of Indonesia and was addressed, at its opening, by Mr. Ali Alatas, Minister for Foreign Affairs of Indonesia, Mr. Yasushi Akashi, Under-Secretary-General for Disarmament Affairs of the United Nations, and Lieutenant-General (Army) Yogie S. Memet, Governor of West Java Province, Republic of Indonesia. The workshop considered the concepts of peace and security in the Asia-Pacific context; assessed the global efforts to achieve a comprehensive ban on chemical weapons and to strengthen the non-proliferation regimes of nuclear weapons and other weapons of mass destruction; reviewed regional disarmament efforts in general and examined, more specifically, such efforts and proposals from the South-Asian, South-East Asian and the Pacific perspectives; and discussed, through various case studies, conflict resolution in the Asia-Pacific region. Participants from 21 countries from Asia and the Pacific took part in the workshop.

(g) A Seminar on Confidence- and Security-Building measures was held from 25 to 27 February 1991 in Vienna.

It was organized by the Department for Disarmament Affairs in cooperation with the Government of Austria.

The seminar reviewed the development of confidence- and security-building measures in Europe, assessed their future role in the post-cold-war era and examined the possible application of the European experience to other regions of the world. About 60 high-level experts from all regions of the world attended the three-day seminar and participated in in-depth discussions of more specific aspects of confidence- and security-building measures through three working groups. These included measures to increase transparency in military affairs, measures to confirm the implementation of agreed obligations and measures of cooperation. Three other working groups discussed confidence- and security-building measures with respect to three regions: Africa; Asia and the Pacific; and Latin America and the Caribbean.

(h) A meeting of experts on the denuclearization of Africa took place from 6 to 10 May 1991, at Addis Ababa.

The meeting was held, pursuant to paragraph 9 of General Assembly resolution 45/56 of 4 December 1990 on the implementation of the Declaration on the denuclearization of Africa, in order to study the modalities and possible elements for preparing and implementing a convention or treaty on the denuclearization of Africa. The meeting was opened by Mr. Yilma Tadesse, the then Assistant Secretary-General for Political Affairs of the Organization of African Unity.

Nine experts, jointly appointed by the Secretariats of the United Nations and the Organization of African Unity, took part in the meeting. Observers from 11 African countries also attended the meeting. The experts examined, among other things, the origin of the proposal to create a nuclear-weapon-free zone in Africa, explored the means for the preparation and implementation of a treaty on the denuclearization of Africa, reviewed the possible elements of such a treaty, studied a nuclear-weapon-free zone for Africa and assessed the extent to which the provisions of the Treaties of Tlatelolco and Rarotonga might serve as models for a treaty on a nuclear-weapon-free zone for Africa.

(i) A Regional Disarmament Workshop for Latin America and the Caribbean, was convened by the Department for Disarmament Affairs from 1 to 5 July 1991, in Mexico City.

The workshop, the third in a series of regional disarmament workshops, was organized with financial support from the Government of Norway. At its opening, the workshop heard a welcome address by Mr. Sergio González Gálvez, Acting Foreign Minister of Mexico and an opening statement of the United Nations Under-Secretary-General for Disarmament Affairs (read out by the Chief of the Monitoring, Analysis and Studies Branch of the Department for Disarmament Affairs). The workshop was attended by some 20 diplomats from Latin America and the Caribbean dealing with security and disarmament matters in their respective countries. Through a series of briefings, lectures, discussions and case studies, the workshop assessed the global efforts to achieve a comprehensive ban on chemical weapons; discussed the current status of negotiations on the chemical-weapons convention; reviewed regional disarmament efforts in general and prospects for conventional arms limitation in Latin America in particular; and considered regional efforts to strengthen the non-proliferation of nuclear weapons.

(j) More detailed accounts of the activities of the regional centres are contained in the report of the Secretary-General (A/46/365).

III. ACTIVITIES OF THE UNITED NATIONS INSTITUTE FOR DISARMAMENT RESEARCH

4. During the period covered by the present report (1990-1991), the activities of the United Nations Institute for Disarmament Research (UNIDIR) relevant to paragraph 8 of General Assembly resolution 44/117 B on regional disarmament included the following.

A. Research projects and publications on regional disarmament issues

1. Security of third world countries

5. In 1987, the UNIDIR Board of Trustees expressed a wide measure of support for a research project on the security of third world countries. UNIDIR accordingly developed a project proposal that envisages a comprehensive analysis of security of third world countries.

6. A group of scholars, adequately representative of the political and geographical diversity in the third world, were invited to approach the subject both from a regional perspective and in its totality, examining specific threats to the security of third world countries and identifying the elements of third world perceptions of security.

7. The final meeting of the group was held at New Delhi from 24 to 26 April 1990, with the cooperation of the Institute for Defence Studies and Analyses of India. The research report resulting from the project is being finalized for publication.

2. Regional approaches to disarmament, security and stability

8. In the wake of the rapprochement between the United States and the Soviet Union and the lessening of international tension, attention has been focused on achieving regional disarmament and security. The research project, which commenced in 1991, is designed to help clarify the relationship between regional and universal approaches; examine initiatives of direct concern to all States in particular regions; palce the discussion in its historical and geopolitical contexts and define a regional concept of disarmament and arms control that will achieve the security and stability of all States on an equitable basis, bearing in mind the specific characteristics of each region. This project will complement the Institute's work on the security of third world countries and the national security concept series.

3. European disarmament and security

(a) European security in the 1990s: problems of South-East Europe

9. Changes in East-West relations and political developments in Eastern Europe have fundamentally altered the parameters of European security discussions. Beyond the pan-European approach to security, subregional approaches are also relevant. The examination of specific issues in South-East Europe in the present context of European security is desirable. The research project will be conducted in 1991, in the region with academic specialists and policy makers from the South-East European countries as well as a selected number of representatives from outside that area. The outcome of the project is to be published in early 1992.

(b) Publications

10. Problems and Perspectives of Conventional Disarmament in Europe. Proceedings of the Geneva Conference 23-25 January 1989, published for UNIDIR by Taylor and Francis (New York, London), 1989, 140 p. Existe aussi en français: Désarmement classique en Europe. Problèmes et perspectives, publié pour l'UNIDIR et l'IFRI par Masson (Paris), 1990, 226 p. Esquisse pour un nouveau paysage europeen, par Eric Remacle, Octobre 1990, 178 p., publication des Nations Unies, numero de vente GV.F.91.0.2. UNIDIR Travaux de Recherche No. 8.

4. Other related projects

(a) Symposium on defensive strategies, defence postures and disarmament

11. The concepts of non-provocative defence, defensive strategies and defence postures have increasingly become the subject of research activity and widespread political recognition.

12. UNIDIR, in association with the United Nations Association of the United States of America and the Max-Planck Society of the Federal Republic of Germany, held a symposium in New York on the subject from 6 to 8 September 1989. Approximately 30 participants, including academic specialists, diplomats, military experts and others representing a diversity of countries, were invited to participate. The concepts were examined from different perspectives, with a view to investigating their feasibility as disarmament measures achieving security at lower levels of armaments, their applicability in regions outside Europe and their impact on strategic concepts and approaches.

13. The papers presented at the symposium and a summary of the discussion have been published as a research report (Non-offensive Defense: A Global Perspective, published for UNIDIR by Taylor and Francis (New York, London), 1990, 194 p.).

(b) The United Nations in disarmament and security

14. A conference, entitled "The United Nations in disarmament and security: evolution and prospects", was organized by UNIDIR in December 1990. The conference examined the role of multilateral diplomacy within the United Nations framework in strengthening stability and security at the global and regional levels, reducing tensions, solving conflicts and contributing to disarmament and arms limitations in the context of the new approaches in international relations, and evolving strategic doctrines. The conference participants included senior policy makers, diplomats and scholars.

15. The proceedings will be published in the second half of 1991, as a research report.

(c) Verification in disarmament

16. This programme involves two activities of interest in regional disarmament:

(i) A research project on the technical, legal and strategic aspects of verification in the field of limitation and reduction of conventional armaments, in particular in the light of the Treaty on Conventional Armed Forces in Europe (CFE). The research project will be carried out with the assistance of qualified experts. The project is to be completed in 1992.

(ii) A research project to examine a great variety of existing and proposed international disarmament verification organizations, whether of a bilateral, regional, global, a uni-functional, multi-functional or omni-functional nature. The report will also examine proposals as presented in the academic literature on the subject. The project is to be completed in 1992.

(d) National security concepts of States

17. For several years, UNIDIR has been conducting a project in the framework of which reports on national security concepts are elaborated. Their objective is to present the concepts that guide the foreign and security policies or initiatives of States, including their approaches to disarmament. Conducted in a systematic way, such a series may greatly facilitate the understanding of national policies and may permit the placement of each particular behaviour in a more general context including its regional one. It could also help to explain some of the difficulties that current disarmament negotiations encounter.

18. Research reports on a number of countries are being prepared with the cooperation of qualified authors who participated in a workshop organized by UNIDIR in 1989 to discuss research methodology and the different approaches to their tasks.

B. Regional conferences of research institutes

1. Conference of African research institutes

19. UNIDIR, with the cooperation of the Algerian National Institute for Global Strategic Studies (INESG), organized a conference of African research institutes working on disarmament and international security issues, held on 24 and 25 March 1990 at Algiers. The Algiers conference was the first in a planned series of regional conferences of research institutes under the aegis of UNIDIR for the purpose of bringing together the research community in the region and fostering inter-institute cooperation.

20. The conference was attended by more than 20 African experts and scholars as well as by a limited number of experts from other regions of the world. The United Nations Regional Centre for Peace and Disarmament in Africa and the Organization of African Unity (OAU) were represented at the conference.

21. Four sessions were held, during which the following subjects were discussed:

(a) Concepts of security in Africa, with reports by Affolabi Moussa Okanla (Benin) and M'Hamed Taibi (Algeria);

(b) African positions on disarmament: global issues, with reports by Ali Hillal Dessouki (Egypt) and Col. Gustave Zoula (OAU);

(c) African positions on disarmament: regional and subregional issues, with reports by Habib Fedhila (Tunisia) and Gabriel Olusanya (Nigeria);

(d) A round-table discussion on cooperation among research institutes in Africa was held, with papers prepared by UNIDIR.

22. Press conferences were held at the opening and closure of the conference. The papers presented at the conference were published by UNIDIR.

23. Africa, Disarmament and Security/Afrique, Désarmement et Sécurité, Proceedings of the Conference of African Research Institutes, 24-25 March 1990/Actes de la Conference des Instituts de recherche africains, 24-25 mars 1990, Geneva, UNIDIR, United Nations publication, Sales No. GV.E/F.91.0.1.

2. Conference of Latin American and Caribbean institutes

24. In furtherance of its objective of fostering cooperation among research institutes, UNIDIR envisages organizing a conference of disarmament research institutes in Latin America and the Caribbean on the subject of "Concepts of security and disarmament in Latin America and the Caribbean and the status of research", to take place at the end of 1991.

25. Researchers, experts and academics from different countries in the region, and from the United Nations Regional Centre of Peace, Disarmament and Development in Latin America and the Caribbean, as well as a limited number of specialists from outside the region will participate. The proceedings of the conference will be published.

3. Conference of Asian and Pacific research institutes

26. A conference similar to the above is expected to be organized in 1992 for research institutes in Asia and the Pacific.

C. UNIDIR Newsletter

27. The quarterly "UNIDIR Newsletter" aims at promoting and strengthening international cooperation in disarmament and related international security research. It focuses, inter alia, on research being carried out on issues of disarmament and international security in one particular region.

28. For the period under review four regional issues have been published: research in Eastern Europe (December 1989); research in North America (June 1990); and research in Northern and Western Europe (December 1990 and March 1991).

29. As of March 1991, regional issues of UNIDIR Newsletter have been suspended. Publication of the Repertory of Disarmament Research has obviated the need for publishing regional and newsletter issues.

30. The UNIDIR Research Institute Database, upon which the publication of the Repertory is based, also permits regional searches of research institutes and publications.

31. UNIDIR Repertory of Disarmament Research: 1990, by Chantal de Jonge Oudrant and Pericles Gasparini Alves (eds.) 1990, 402 p. United Nations publication, Sales No. 8V.E.90.0.10, to be updated in 1992.

IV. REPLIES RECEIVED FROM GOVERNMENTS

BELGIUM

[Original: French]

[11 March 1991]

1. Belgium adopted the 1990 Vienna document concerning Negotiations on Confidence- and Security-building Measures, which incorporates a series of new measures that complement those adopted in the Document of the Stockholm Conference.

The participating States recognized that the negotiations would continue in accordance with the mandates of the Madrid and Vienna follow-up meetings of the Conference on Security and Cooperation in Europe (CSCE), so as to develop and broaden the results already achieved.

2. Belgium also contributed to the elaboration of the Treaty on Conventional Armed Forces in Europe (CFE-1) signed in Paris on 19 November 1990.

The achievement of a more stable and secure balance of conventional forces at lower levels in the Atlantic-to-Urals zone will strengthen stability and security on the European continent by eliminating the capability for launching surprise attack and for initiating large-scale offensive action.

3. Belgium intends to participate actively in the following negotiations:

3.1 CFE-1-A, concerning issues (personnel, limitations, aerial inspection) which were not covered by CFE-1;

3.2 Confidence- and security-building measures (CSBM): continuation of Negotiations on Confidence- and Security-Building Measures, some of which were approved in Paris;

3.3 "Open Skies": continuation of negotiations in Vienna, along with the CFE-1-A negotiations, on aerial observation (to supplement the aerial inspections provided for in CFE-1-A).

4. Belgium participates in the following permanent CFE or CSCE bodies:

4.1 The Joint Consultative Group under the CFE agreement, responsible for overseeing the implementation of the Treaty, determining the necessary arrangements and suggesting possible amendments;

4.2 The Conflict Prevention Centre established at the Paris Summit and inaugurated on 3 December 1990;

4.3 Other activities in the field of military security, including the second seminar on military doctrines to be held in the framework of CSCE.

5. Belgium intends to participate in the CSCE follow-up Conference, scheduled to begin in March 1992 in Helsinki.

6. With respect to security and stability in the Near and Middle East, Belgium favours the convening of one or more CSCE type conferences for the Middle East and the Mediterranean.

At the eightieth ministerial meeting on European political cooperation, held in Luxembourg on 19 February 1991, the Community and its member States, including Belgium, pledged to contribute actively, once the rule of international law was restored in Kuwait, to security and development for all the countries of the region in an appropriate framework which also took into account the need for a global, flexible and gradual approach to the various problems of the region, particularly the Palestinian problem.

BULGARIA

[Original: English]

[19 June 1991]

1. The Republic of Bulgaria considers that, at the present stage of development of international relations, arms control and disarmament issues are undergoing significant evolution. The risk of a coalitionist war in Europe has diminished considerably and rivalry and confrontation are giving way to dialogue and cooperation, to mutual understanding and reasonable compromise. Nevertheless, the activities of States to advance disarmament and increase security on a global and regional scale retain their importance in international affairs.

2. The present state of the international situation predetermines the importance attached to the regional approach to disarmament. More and more countries regard regional disarmament efforts as an essential contribution to the general process of arms control and disarmament. Regional disarmament measures can significantly contribute to the promotion of military openness, predictability and confidence. Concurrently with the elimination of certain types of armaments on a global scale, the arms control efforts of States in different regions are acquiring greater importance. The very fact that the specific characteristics of the respective regions are taken into account is a guarantee for the legitimate security interests of the States taking part in the disarmament process.

3. Bulgaria believes that regional disarmament efforts should be carried out in compliance with the goals and principles of the United Nations Charter, strictly abiding by the generally acknowledged norms of international law.

4. Bulgaria has adopted a number of unilateral disarmament measures and has cut its military budget in the course of restructuring its armed forces on the principle of non-offensive defence. It considers that activities of this kind would enhance security in the Balkans. The principle of sufficiency, which presupposes balancing military potentials at the lowest level possible, underlies the defence policy of the Republic of Bulgaria.

5. Guided by the goals of the Conference on Security and Cooperation in Europe, Bulgaria supports, as a matter of priority, the establishment of a stable balance of conventional forces at lower levels and liquidation of the means for surprise attacks and large-scale offensive operations. Bulgaria considers that the Treaty on Conventional Forces in Europe, signed in Paris on 19 November 1990, sets a positive example for disarmament within a single continent. Interested countries in other regions of the world may consider the possibility of applying a similar approach to limit armaments and armed forces in other regions throughout the world.

6. The following further subregional steps of military disengagement in the Balkans to secure stability are urgently needed:

- a balance of forces and armaments that excludes the possibility of undertaking large-scale offensive operations of one country against another;

- eliminating military postures which may have been needed in the times of "cold war" but are no longer considered a stable basis of good-neighbourly relations;

- efforts on the part of all Balkan countries to reach an agreement on a regional balance of forces that would not allow any regional State to fear a threat from its neighbours.

7. Bulgaria favours continuation of the discussions on the role of nuclear weapons in the various subregions of Europe, and is ready to take part in further talks on modalities for freeing the Balkans from nuclear and chemical weapons. Bulgaria expresses the view that the promotion of cooperation and mutual trust in the Balkans and in Europe as a whole would contribute to efficient measures of regional arms control and disarmament.

8. Bulgaria's view is that the Balkan States should voluntarily and seriously commit themselves to building a pan-European security system. Concrete agreements reached with neighbouring States should optimize the existing favourable factors - good-neighbourly traditions, geographic proximity, and a common interest in maintaining stability and in joining the developed countries.

CHINA

[Original: Chinese]

[23 May 1991]

1. China always pursues an independent foreign policy of peace, and stands for the establishment of a new order of international relations on the basis of the Charter of the United Nations and the Five Principles of Peaceful Coexistence. In order to maintain world peace and security, enhance tranquillity and stability in the Asian-Pacific region and promote the process of disarmament, China has taken a number of practical measures, including its negotiations with the Soviet Union on disarmament along the Sino-Soviet border and confidence-building in the military field.

2. Based on the agreement reached at the summit between China and the Soviet Union in May 1989, the Chinese and Soviet sides held two rounds of negotiations respectively in November 1989 in Beijing and in February 1990 in Moscow on the mutual reduction of military forces along the Sino-Soviet border and of confidence-building in the military field. During Chinese Premier Li Peng's visit to the Soviet Union in April 1990, the foreign ministers of the two countries signed in Moscow the Agreement between the Governments of the People's Republic of China and the Union of Soviet Socialist Republics on

the Guiding Principles for Mutual Reduction of Military Forces along the Sino-Soviet Border and Confidence-building in the Military Field, and the two sides agreed that, on the basis of the principle of equal security, the military forces of the two countries along the border should be reduced to the lowest level commensurate with the normal and good-neighbourly relations between the two countries, so that the troop structure of the two sides along the border shall have only defensive and not offensive capabilities, and that a number of confidence-building measures should be formulated to increase mutual trust in the military field and maintain tranquillity and stability along the Sino-Soviet border.

3. In order to implement this Agreement, the Chinese and Soviet diplomatic and military experts' delegations had three rounds of disarmament negotiations, respectively from September to October 1990 in the Soviet Union, from November to December of the same year in China, and in April 1991 in the Soviet Union. The third round is under way.

CZECHOSLOVAKIA

[Original: English]

[7 May 1991]

1. The Czech and Slovak Federal Republic believes that regional disarmament measures can play an important positive role in strengthening peace, stability and security in various regions and be a necessary supplement to broader, possibly global, disarmament agreements. Examples of such regional measures, which are of a preventive nature, are the Tlatelolco treaty on a nuclear-weapon-free status for South America and the Rarotonga treaty on the establishment of a nuclear-weapon-free zone in the South Pacific.

2. In a certain sense, Czechoslovakia regards the Treaty on Conventional Armed Forces in Europe as such a regional measure, even though this Treaty constitutes rather a continent-wide accord of global significance.

3. Czechoslovakia follows with special interest all proposals on disarmament measures in the individual parts of Europe. In principle, it supports the efforts to set up nuclear-weapon-free zones in various parts of Europe. At the same time, however, it proceeds from the fact that such proposals should not weaken the endeavours aimed at a pan-European solution of the problem of tactical nuclear weapons, or developing further the processs of bilateral and multilateral negotiations on the crucial issues of nuclear disarmament.

4. Czechoslovakia takes the view that the developments in the Persian Gulf have confirmed that the proposals to create a zone free of nuclear and chemical weapons in the Middle East were substantiated, and that the establishment of such zones would be a contribution to a general lessening of military confrontation in that region, in particular in crisis situations. Therefore, it supports the opening of talks on setting up such zones in the Middle East.

5. Czechoslovakia assumes that initiatives to adopt regional disarmament measures should be taken by countries situated in the region concerned, discussed democratically by representatives of all States in question and put into practice and implemented only with the consent of such States. Wherever possible, the respective initiatives should not be of a closed, exclusive nature and should be open to other interested States for accession.

6. In considering the security situation in Europe, as well as the possibilities of development of the disarmament process on that continent, Czechoslovakia proceeds from the fact that, after the collapse of the totalitarian regimes in central and eastern Europe and after the elimination of the "Iron Curtain", new conditions and leeway have emerged for solving the problem of disarmament in the European region. The new situation is demonstrated also by such facts as the unification of Germany, the adoption of the Charter for New Europe which imbues the Helsinki process with new contents, the signature of the Treaty on Conventional Armed Forces in Europe, the adoption of the Vienna document of 1990 on security and confidence-building measures in Europe, the abolition of all Warsaw Treaty military organs and structures, the steps taken by NATO to transform itself in the sense of the London declaration, the dynamic withdrawal of Soviet troops from Central Europe, the inclusion of central and eastern European countries in the Council of Europe.

7. Czechoslovakia is of the opinion, also in the process of disarmament, that the bloc-based approach which has constituted a major impediment to the solution of the issues of disarmament in Europe thus far is starting to wane. This fact found a clear expression at the Vienna negotiations on conventional armed forces in Europe and on the strengthening of confidence and security in Europe. The coordinating mechanism of the Warsaw Treaty at those negotiations broke down. The concept of a treaty on conventional armed forces in Europe based on the balance of forces of the two blocs has lost its merit.

8. Czechoslovakia is convinced that, apart from the positive aspects, the present situation has also some negative features. The changes in eastern and central Europe have generated an instability in the countries of the region which has political, economic, nationalistic and ethnic causes. The possibility of a recurrence of the "cold war" is not definitively excluded. Even though such a scenario is not inescapable, it is still a serious reason for concern as regards the future development of the countries members of the former Warsaw Treaty.

9. Therefore, Czechoslovakia is making efforts to ensure that political, military and economic stability is preserved in the European region which would make it possible:

- To ratify and implement the Treaty on Conventional Armed Forces;

- To implement successfully the Vienna document on security and confidence-building measures in Europe;

- To proceed with the consideration of substantive questions at Vienna concerning both the negotiations on conventional armed forces and those on confidence and security building measures, and to render fully operational the Conflicts Prevention Centre;

- To elaborate and adopt at the Helsinki follow-up meeting a mandate for negotiations on disarmament and on confidence and security building measures in Europe on the basis of participation of all 34 CSCE States;

- To continue and bring to a conclusion the "Open Skies" negotiations, which would be an important step towards enhanced transparency and predictability of military activities;

- To reduce substantially, or possibly fully eliminate, the tactical nuclear potential in Europe, which makes it necessary to open speedily Soviet-US talks on this issue.

10. Czechoslovakia advocates that the bilateral and multilateral structures in the political, economic, humanitarian and environmental spheres be strengthened. The Czech and Slovak Federal Republic is negotiating treaties with the Federal Republic of Germany, the USSR, the Republic of Poland and the Republic of Hungary. It is upgrading contacts with NATO in order to make maximum use of the existing security mechanisms. We also wish the Western European Union and the European Communities to monitor risks resulting from the unpredictability of European development and from possible threats to Europe from outside.

11. Czechoslovakia is seeking pan-European security, i.e. security in the interest of all European countries. Consequently, it is taking steps towards further reinforcement of the political structures of the Conference on Security and Cooperation in Europe (CSCE) mechanisms. In harmony with the aims and principles of the Charter and of CSCE it has proposed to set up a European security commission composed of the participating States of the Helsinki process as a permanent forum for considering questions relating to the security of the continent.

12. The Czech and Slovak Federal Republic is convinced that strengthening of stability, security and development of the disarmament process in Europe is in the interest of peace and security in the whole world.

FINLAND

[Original: English]

[25 April 1991]

[For the reply of Finland, see document A/46/333.]

NEW ZEALAND

[Original: English]

[12 July 1990]

1. The New Zealand Government hosted a Pacific Security Symposium at Wellington from 17 to 19 May 1990. The initial idea for the Symposium had been raised by members of the New Zealand peace movement, and was subsequently brought to fruition by the Minister for Disarmament and Arms Control, the Honourable Fran Wilde.

2. The Symposium was designed to provide a forum for discussion of Pacific security, including disarmament and security topics in the region, economic and environmental issues affecting the Pacific, and future options for these issues.

3. The Symposium was most successful in facilitating an informative exchange of views as a range of speakers from the wider Pacific region, including academics, activists and other expert commentators, participated.

4. New Zealand fully supports the work of the United Nations Regional Centre for Peace and Disarmament at Kathmandu and earlier this year took part in the Centre's talks on confidence-building measures. New Zealand reiterated its continuing support of the use of confidence-building measures in areas of the world where military tensions are high, and contributed to discussions on potentially useful confidence-building measures for the Asia-Pacific region.

5. New Zealand believes that a beneficial focus for the Centre over the next year will be the development of a regional environment in which confidence-building measures could be usefully elaborated. The Centre provides perhaps the only suitable venue for discussion of these kinds of issues.

PERU

[Original: Spanish]

[1 July 1991]

1. The Peruvian Government's foreign policy in regard to disarmament and security attributes particular importance to the regional disarmament process, in the belief that this approach is central to the achievement of general and complete disarmament, in particular through the concrete possibilities that it offers for arriving at specific disarmament agreements permitting the implementation of overall security plans at the regional level, within the wider context of global disarmament objectives.

2. In accordance with the above, Peru from the outset wholeheartedly supported General Assembly resolution 44/117 B, on the grounds that it serves as a model for initiatives on behalf of regional disarmament, in Latin America in particular.

3. In accordance with its traditional position, therefore, the Government of Peru is in favour of discussing proposals in the various regional forums relating to such various aspects of the matter as the transfer of arms, conventional disarmament at the regional level, confidence- and security-building measures and measures for development, with a view to securing adequate political support for such measures, thus helping to bring about concrete bilateral and multilateral negotiations on regional disarmament.

4. In this context, a number of regional meetings, in which Peru has been an active participant and to which it has made substantive contributions, have borne witness to the political interest in disarmament matters and the spirit of General Assembly resolution 44/117 B. Some of the most important meetings and declarations are:

- ACAPULCO COMMITMENT TO PEACE DEVELOPMENT AND DEMOCRACY, of 29 November 1987, in which Peru, with the other member countries of the Permanent Mechanism for Consultation and Concerted Political Action (RIO GROUP), welcomed the bilateral advances made by the super-Powers towards bringing into effect the Treaty on the Elimination of Intermediate-Range and Short-Range Missiles (INF) and the multilateral negotiations in the Conference on Disarmament, in the hope that they would be further reflected in a reduction in military spending and regional armaments. Peru also spoke on that occasion in favour of concerted and concrete action for regional security, peace, democracy and development.

- SECOND MEETING OF THE PERMANENT MECHANISM FOR CONSULTATION AND CONCERTED POLITICAL ACTION (URUGUAY DECLARATION), of 29 October 1988, a document in which the concepts of regional security are developed in their entirety (political, socio-economic, environmental and military elements).

- THIRD PRESIDENTIAL MEETING OF THE PERMANENT MECHANISM FOR CONSULTATION AND CONCERTED POLITICAL ACTION (ICA DECLARATION), of 12 October 1989, which appeals to all States to take steps to institute effective control measures in order to halt the growing clandestine arms traffic, and urges international and regional institutions to pay special attention to the problem.

- MEETING OF MINISTERS FOR FOREIGN AFFAIRS OF THE PERMANENT MECHANISM FOR CONSULTATION AND CONCERTED POLITICAL ACTION, OF 28 January 1991, including reflections on the system of world security set out in the Charter of the United Nations and its relationship to security in Latin America - to which should be added social and economic problems.

- GALAPAGOS DECLARATION: ANDEAN COMMITMENT TO PEACE, SECURITY AND COOPERATION, of 18 December 1989, in which special emphasis is placed on the link between disarmament and development. The document also reconfirms political support for the commitments made under the Treaty of Tlatelolco and Treaty on the Non-Proliferation of Nuclear Weapons. The Andean countries also committed themselves to regional and subregional initiatives for the adoption of confidence-building measures in the political, economic and military spheres, especially in border areas. This is particularly important for improving control over arms transfers.

- ROME DECLARATION ON RELATIONS BETWEEN THE EUROPEAN COMMUNITY AND THE RIO GROUP of 20 December 1990, in which the member States of both groups agreed, inter alia, to strengthen their relations in order to bring about arms reduction and prevent the proliferation of means of mass destruction, and stressed the need for a global agreement to completely ban chemical weapons.

- ACT OF THE FIRST INSTITUTIONALIZED MINISTERIAL MEETING BETWEEN THE RIO GROUP AND THE EUROPEAN COMMUNITY, Luxembourg, 27 April 1991, in which political backing is given to arms reduction, and the non-proliferation of weapons and systems of mass destruction. Support was also expressed for the work of the Conference on Disarmament, particularly in regard to the complete banning of chemical weapons at the earliest possible moment, and an appeal was made to States to abstain from exporting weapons to areas where conflicts might be exacerbated by such exports. Lastly, this meeting of the two regions reaffirmed the determination of their Governments to reduce their military budgets as far as possible.

5. The actions described above, and the political support enjoyed in Latin America by the initiation of mechanisms aimed at ensuring regional peace and stability, have in several cases made possible the conclusion of specific agreements designed to ease existing tensions in the area.

6. Thus, for example, the Esquipulas agreements concerning the establishment of peace in Central America bear concrete witness to the determination of the Governments of the region to foster regional stability and security.

7. The Peruvian Government believes it is necessary in this context to emphasize that security in the Latin American region is closely tied to economic and social development. Hence the need to take into account the social, economic, humanitarian and environmental aspects which, together with military questions, constitute the appropriate framework for initiating concrete plans for overall regional security.

8. In view of all this, and given that, since the end of the Second World War, the vast majority of the world's armed conflicts have taken place in developing countries, the United Nations has a central role to play in a wide-ranging and general definition of security which departs altogether from

traditional patterns suited to the earlier stages of relationships between States and recognizes the profound link between disarmament and development.

9. The Peruvian Government also regards as fundamental the Organization's efforts to disseminate information on disarmament through the World Disarmament Campaign. It is imperative for all Member States to join in strengthening United Nations action in this field, by making adequate funds available, since it will help substantially in the timely identification of the specific characteristics and needs of each region in regard to disarmament. Doing so will help bring about the necessary complementarity between regional efforts and the Organization's global approach to general and complete disarmament.

10. The United Nations regional centres for peace and disarmament in Africa and Asia, and the Regional Centre for Peace, Disarmament and Development in Latin America, and the Caribbean are thus particularly important, both for the fulfilment of the World Disarmament Campaign's central objectives and for promoting regional meetings and seminars designed to encourage the dissemination of the goals of general and complete disarmament, and discussion of actions which the Governments of the States concerned could undertake to initiate specific activities aimed at arms reduction and disarmament in their respective regions.

THAILAND

[Original: English]

[13 August 1991]

1. The doctrine of the Royal Thai Government is defensive in nature. Accordingly, the budget allocated to the armed forces is only sufficient to ensure the necessary readiness and capability to protect Thailand's territorial integrity, sovereignty and independence.

2. The Royal Thai Government has gradually reduced the percentage of the annual national budget assigned to the Ministry of Defence in recent years. In 1983, the Royal Thai Government appropriated 20.37 per cent of the annual budget for the Ministry of Defence. The budget to defence decreased in successive years: to 18.71 per cent in 1984, 18.46 per cent in 1985, 18.01 per cent in 1986, 17.21 per cent in 1987, 16.91 per cent in 1988 and 15.58 per cent in 1989.

3. Thailand is also of the view that effective regional disarmament can be brought about only by the reduction in the size of the armed forces and military budget of the countries in the region. Moreover, external Powers should cease to provide military assistance and arms to countries in the region.

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UNITED NATIONS DECADE OF INTERNATIONAL LAW

REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS

United Nations Rules for the Conciliation of Disputes between States**

Report of the Secretary-General

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* A/46/150.

** According to paragraph (c) of decision 45/413 of 28 November 1990, the General Assembly decided that "the question of the rules for the conciliation of dipsutes between States should be examined as part of the programme of the United Nations Decade of International Law and in the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, as appropriate".

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I. INTRODUCTION

1. On 28 November 1990, the General Assembly adopted decision 45/413, by which, it, inter alia, requested the Secretary-General to circulate the document relating to the draft conciliation rules of the United Nations submitted to the Assembly at its forty-fifth session, that together with the amendments submitted during the current session to all Member States, organs and competent specialized agencies of the United Nations, regional intergovernmental organizations and international legal bodies interested in the draft conciliation rules and to invite them to send to him their observations, comments and suggestions thereon; and to submit a report containing the replies received to the General Assembly at its forty-sixth session.

2. By a note verbale dated 11 March 1991, the Secretary-General invited Governments of Member States to communicate to him any observations, comments and suggestions on the draft conciliation rules of the United Nations. A similar request was transmitted by a letter dated 19 February 1991 from the Legal Counsel to relevant United Nations bodies, the President of the General Assembly and the President of the Security Council, the specialized agencies, the International Atomic Energy Agency, as well as various regional organizations and non-governmental organizations.

3. As at 7 August 1991, replies had been received from Austria, Cuba, Denmark (on behalf of the Nordic countries), Israel, Luxembourg (on behalf of the Twelve States Members of the European Community) and Zimbabwe. Further replies had been received from the International Labour Organisation, the International Maritime Organization, the Universal Postal Union, the Office for Ocean Affairs and the Law of the Sea, and the United Nations Commission on International Trade Law.

4. The present report reproduces the replies received from the above-mentioned Governments and organizations. Any further replies will be reproduced in an addenda to the present report.

II. REPLIES RECEIVED FROM MEMBER STATES

AUSTRIA

[Original: English]

[8 July 1991]

1. Austria welcomes any proposal intended to strengthen the principle of the peaceful settlement of disputes. Conciliation, as is shown by State practice, is in many cases the procedure most likely to be accepted by the States parties to a dispute. It is therefore appropriate to elaborate conciliation rules of the United Nations which, by reference, could easily be integrated into individual conciliation agreements. The draft rules contained in document A/C.6/45/L.2 have been taken note of by Austria with great interest.

2. With regard to the present formulation of the various provisions contained in this document, Austria would like to submit the following comments:

The general approach chosen by the draft rules, i.e. the differentiation between the functions of a sole conciliator and those of a conciliation commission should be reconsidered. The functions accorded to conciliation commissions are so flexible that it may be asked why a sole conciliator should not be able to discharge the same functions as a commission.

3. Several draft provisions contain issues which require further detailed examination. The following observations to some of the draft articles are therefore to be regarded as preliminary:

Article 1: Austria would welcome a clearer formulation of the scope of application of these rules, in order to prevent disputes as to their applicability. It is not evident why the rules should not apply to all disputes, including all those of a legal nature. The present limitation to certain disputes of a legal nature, i.e. those involving questions of responsibility or reparation, does not seem to be appropriate, as most if not all, such disputes entail questions of responsibility.

Furthermore, it seems inappropriate to restrict the applicability of the rules to disputes which have already been subject to other means of peaceful settlement. The discretion of the parties to resort to these rules should not be limited.

Article 4: It would seem more appropriate to specify the number of conciliators of a standard conciliation commission, so that the rules may be applied without additional agreement on the number of conciliators. If required, the parties could agree on a different size of the commission or on a sole conciliator.

Articles 12, para. 4, and 28, para. 2: The conciliation rules do not contain any indication as to the basis on which the terms of settlement should be proposed. It is only mentioned that there should be no formal ruling on issues of law, unless there is a joint request of the parties to the contrary. It would, however, be preferable to specify the framework within which the proposed terms of reference should be drawn up, e.g. by referring to general terms such as basic principles of international law, justice and equity. It has to be taken into account that terms of settlement in contradiction with provisions of jus cogens could be an obstacle to a final peaceful settlement of a dispute.

Articles 29 and 48: The effects of the terms of settlement are not clearly defined. It may be asked whether the "acceptance" by the parties (Article 29) is intended to endow the terms of settlement with a legally binding effect - in apparent contradiction to Article 48.

Furthermore, it is proposed to replace the expression "study" in Article 48 by "to take into account" or "consider in good faith and in a spirit of cooperation", since these expressions have been accepted by international practice.

4. Finally, in the view of Austria, proposed draft rules should be further considered in the working group of the Sixth Committee on the Decade of International Law.

CUBA

[Original: Spanish]

[4 June 1991]

1. In the opinion of the Cuban Government, the idea of using the means of peaceful settlement of disputes between States offered by the Charter of the United Nations is truly commendable, for it would contribute to the maintenance of international peace - one of the basic purposes for which the United Nations was established.

2. It is therefore to be expected that rules which develop such ideas and facilitate the use of the aforementioned mechanisms, and which are adopted in the form of recommendations, offering parties the option to apply them, will be most useful, in so far as they are based on the willingness of the parties to settle the disputes in the manner and by the means set forth in the document to be adopted.

3. On more than one occasion, the Government of Cuba has placed on record its support for the idea that the Programme for the Decade of International Law should include work on the preparation of some document to promote the peaceful settlement of disputes between States. That is also something in which the Movement of Non-Aligned Countries, to which Cuba belongs, has repeatedly expressed interest.

4. Inasmuch as the question of peaceful settlement of disputes is a permanent item on the agenda of the Special Committee on the Charter of the United Nations on the Strengthening of the Role of the Organization, it would be useful if the Special Committee's future work involved consideration of the elaboration of the rules referred to in the title of decision 45/413. To that end, the annexed document might serve as a starting-point, thereby facilitating the work of the Special Committee.

5. The Government of Cuba does not wish to miss the opportunity to place on record, once again, its interest in contributing, as far as its circumstances permit, to the elaboration, in this or in any other forum deemed appropriate, of a document on the peaceful settlement of disputes to promote the cause of peace, which has been in severe jeopardy in recent times.

DENMARK

[On behalf of the Nordic countries]

[Original: English]

[13 June 1991]

1. The Nordic countries have continuously advocated the opinion that peaceful settlement of disputes, being one of the principles advanced in Article 2 of the Charter of the United Nations, is an important field of activity for the Sixth Committee.

2. Conciliation is considered one of the classic means for peaceful settlement of disputes. A multitude of international agreements point to conciliation in case a dispute should arise, and the "Handbook on the Peaceful Settlement of Disputes between States" prepared by the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization as a matter of course contains an important chapter on conciliation (II.E).

3. One of the main reasons that more general rules on conciliation have not previously been drawn up is in the eyes of the Nordic countries the necessity that the conciliation procedure is given maximum flexibility to be adapted to the specific case at issue. They therefore find that the proposed United Nations rules for the conciliation of disputes between States need very careful study.

4. Among the other points which need in-depth clarification they want to point to:

The role of the Secretary-General (art. 2.2),

The need to differentiate between "rules applicable to conciliation by a sole conciliator" (chap. VI), and "rules applicable to conciliation by commission" (chap. VII),

The possibility of distinguishing between "disputes of a purely legal nature" (art. 1) and a dispute which "involves issues of fact only" (e.g. art. 28, and the explanatory commentary point 8),

The necessity of not revealing the content of comments from one party to the other (art. 38).

5. In the light of the weight which is given to peaceful settlement of disputes as a theme of the United Nations Decade of International Law the Nordic countries fully agree to paragraph (c) of the General Assembly decision 45/413 of 28 November 1990 which reads

"That the question of the rules for the conciliation of disputes between States should be examined as part of the programme of the United Nations Decade of International Law and in the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, as appropriate."

6. Accordingly, they do not find it necessary that the draft conciliation rules be maintained as a separate item for consideration in the Sixth Committee.

ISRAEL

[Original: English]

[18 June 1991]

1. The aim of the proposal is to attract States to the peaceful settlement of disputes in general and to conciliation in particular.

2. One of the major attractions of conciliation is its flexible nature. This flexibility should not be lost during the process of the creation of model rules.

3. States should be free to adopt rules, in whole or in part, to modify or incorporate additional provisions not foreseen in the general rules. The process can be different in each case.

4. Thus article I, subparagraph 2 of annex I should be modified by the addition of the words "or add to them" at the end of the first sentence of the subparagraph.

LUXEMBOURG

[on behalf of the Twelve States members of the European Community]

[Original: English]

[13 June 1991]

1. The Twelve have taken note with interest of the proposal concerning United Nations rules for the conciliation of disputes between States. Proposals, as the one submitted by the delegation of Guatemala, made with the objective of furthering the peaceful settlement of disputes, are always considered with great attention by the Twelve.

2. The Twelve Member States of the European Community accept binding procedures for the settlement of international disputes, whether at a regional level at the European Court of Justice at Luxembourg, the European Court of Human Rights at Strasbourg or, at the universal level, in various ways, at the International Court of Justice at The Hague. Arbitration has also been resorted to by some of the Twelve, using when appropriate the mechanism provided by the Permanent Court of Arbitration. In this context the Twelve wish also to refer to a new mechanism for dispute settlement, elaborated in Valetta by the participating States in the Conference on Security and Cooperation in Europe.

3. This attitude towards the peaceful settlement of disputes is a fundamental and natural part of the Twelve's view on international relations. They are strongly in favour of any constructive step that might strengthen the principle of peaceful settlement as enshrined in Article 2, paragraph 3, and Article 33 of the Charter of the United Nations.

4. The proposed rules for conciliation constitute prima facie a thorough and interesting synthesis of existing precedents and scholarly contributions in this field. The Twelve recognize the importance of building on existing structures. As a detailed consideration on all the aspects of the proposal would require a study of the existing documents, it would be useful to receive indications as to the specific sources of the various provisions.

5. As the Permanent Representative of Italy declared in his statement on behalf of the Twelve on 19 October in the Sixth Committee, they have some doubts as to the scope of application of the Articles, the necessity of adopting different rules for procedures with one conciliator and procedures with a conciliation commission, and as regards the rules concerning disputes involving more than two parties.

6. With respect to the procedure for a further consideration of this proposal, the Twelve suggest that this be done as part of consideration of the wider question of the enhancement of the role of conciliation in the peaceful

settlement of disputes. The working group of the Sixth Committee on the Decade of International Law or the Charter Committee could be the appropriate forum.

ZIMBABWE

[Original: English]

[21 July 1991]

1. "Conciliation" is defined as winning over or gaining favour or regard, especially by making overtures. As a method of settlement of disputes conciliation is similar to "good offices" or "mediation" in which usually a friendly third State assists in making the disputing parties settle their differences amicably. So that where there is a dispute conciliation is a method of overcoming hostility.

2. According to Judge Manly O. Hudson, "Conciliation ... is a process of formulating proposals of settlement after an investigation of facts and an effort to reconcile opposing contentions, the parties to the dispute being left free to accept or reject the proposals formulated"; International Tribunals (1944), p. 223. J. G. Starke states "the term 'conciliation' has both a broad and a narrow meaning. In its more general sense, it covers the great variety of methods whereby a dispute is amicably settled with the aid of other States or impartial bodies of inquiry or advisory committees. In a narrow sense it signifies the reference of a dispute to a commission or committee to make a report with proposals to the parties for settlement, such proposals not being of a binding character"; An Introduction to International Law, p. 477.

3. A "dispute" is an argument, debate or quarrel about something. Ian Brownlie, defines "dispute" in his book Principles of Public International Law, p. 467 as "a disagreement on a point of law or fact, a conflict of legal views or of interests between two parties". In the Manual of Public International Law, p. 675, Max Sorensen states that in a restricted sense a dispute may be said to have arisen when a party presents to another a specific claim based upon an alleged breach of the law and the latter rejects it.

Brief history on conciliation

4. "Conciliation as a method of settlement of disputes is not new. Conciliation provisions were provided for in The Hague Conventions of 1899 and 1907 for the Pacific Settlement of International Disputes"; J. G. Starke, ibid., p. 478. Starke goes on to say that commissions could be set up by special agreement between the parties and were to investigate and report on situations of fact with the proviso that the report in no way bound the parties to the dispute".

5. More recent treaties providing for conciliation are the Brussels Treaty of March 17 1948, and the Pact of Bogota of 1948, which established the Organization of American States. Further, Article 33 (1) of the United Nations Charter mentions conciliation as one of the peaceful procedures to be first adopted by parties to find a solution. Under Article 10 or 14 the General Assembly, and under Article 34 the Security Council, may appoint a commission to conciliate a dispute. Max Sorensen states "Conciliation though sparingly used directly between States, has now become of major importance in international institutions. It combines the advantages of inquiry and mediation. Recently the importance attached to conciliation is witnessed by the fact that the Institute of International Law studied the procedure, adopted some aspects of it and recommended the conclusion of bilateral treaties of conciliation, ibid., p. 683.

6. Conciliation is less formal than either judicial settlement or arbitration and can be distinguished from the latter two in many ways, one of which is that through conciliation parties to a dispute are perfectly free to decide whether or not to adopt the proposed terms of settlement. Whereas the contrary is true of judicial settlement and arbitration. Another example is that the award made by an arbitrator, arbitrators or umpire under one of our statutes, that is the Arbitration Act [Chapter 12], is final and binding on the parties, (see item 13 of the Schedule to Chapter 12); whereas this is not so in the case of a report or recommendation of conciliators. Again in terms of section 27 of Chapter 12, the report or award of any officer of the Court, official or special referee or arbitrator may, upon motion by any party after due notice to the other parties, be made a judgement of the Court. This is not so in the case of the report or recommendation of a conciliator or conciliators.

Some advantages of conciliation

7. Conciliation as a method of dispute settlement has several advantages, among which are -

(a) disputes are settled in a friendly and amicable atmosphere;

(b) there is a close relationship between the conciliators and parties to a dispute, making it possible for parties to make up their minds;

(c) parties to a dispute are not bound by recommendations of the conciliators, consequently if agreement is not reached parties can resort to other forms of settlement of dispute; and

(d) conciliatory procedures are not time consuming.

Comments and observations on the conciliation rules of the United Nations

8. The procedures laid down under these rules combine the advantages of inquiry and mediation, are easy to follow and afford parties an opportunity to settle their disputes with dispatch; and consequently are welcome. Among the attractive aspects of the rules are:-

(a) States are free to exclude or amend any of the provisions of the rules to suit their cases - Article 1.2;

(b) the assistance and advice of the Secretary-General of the United Nations is always available - Articles 2.2, and 2.4;

(c) parties to disputes may decide to have a sole conciliator, three conciliators or five conciliators; and

(d) parties to disputes can choose the language or languages in which the conciliation proceedings should be carried out - Article 2.1.

9. In view of the above observations parties to a dispute could obtain valuable information to assist them to decide whether invoking the rules would assist them settle their dispute amicably. Further and most important the rules afford the parties room for manoeuvre. It could be viewed that since the reports or recommendations of conciliators are not binding on the parties, the procedures could be time wasting and futile since parties could resort to other methods of dispute settlement if they are not satisfied. However, this disadvantage is outweighed by the many advantages.

10. There are also safeguards which ensure the impartiality of conciliators among which are -

(a) Article 6, which provides that the sole conciliator shall not have the nationality of any of the parties, have resided habitually in their territory and shall not be or have been in the service of any of them;

(b) Article 7, which states that where there are three conciliators, the third conciliator who shall act as Chairman shall not be the national of any of the parties or a habitual resident in their territory or have been in the service of any of them; and

(c) Article 8, which indicates that where five conciliators are appointed three of them should be nationals of third States and shall be of different nationalities. The restrictions imposed on qualifications for nomination of conciliators in terms of articles 6 and 7 apply to them too.

11. It is appreciated that the rules are meant for disputes which it has not been possible to settle by direct negotiations and which the parties wish to settle by purely amicable means and do not apply to disputes of a purely legal nature in which no questions of responsibility or reparation arise and in which there is no disagreement as regards the facts. Parties are not compelled to invoke the rules but instead they are free to invoke them in toto or as amended by them. Also as indicated in annex II, paragraph 1, parties may conclude bilateral agreements adopting an amended version of the rules which in itself gives parties a free hand to decide how they intend to conciliate their disputes. This being so we have no objections or strong feelings against the rules.

III. REPLIES RECEIVED FROM UNITED NATIONS SPECIALIZED AGENCIES

INTERNATIONAL LABOUR ORGANISATION

[Original: English]

[19 April 1991]

1. The International Labour Organisation does not have any particular competence regarding the establishment of general rules or procedures for the peaceful settlement of disputes between States. It does, however, make provision for a variety of procedures to settle differences regarding the interpretation and application of international labour standards. Some comments on the potential relationship between these procedures and the draft rules may accordingly be useful.

2. Many of the ILO procedures (e.g. representations under article 24 of the Constitution, or freedom of association complaints) do not relate to inter-State disputes but rather to differences between organizations of employers or workers, on the one hand, and particular member States, on the other. They are accordingly not affected by the draft rules. There are, however, two constitutional procedures which may be regarded as being addressed to inter-State disputes.

3. The first may be initiated by a member State filing a complaint under article 26 of the Constitution to the effect that another Member is not securing the effective observance of a convention which both have ratified. Such a dispute, although having legal aspects and not giving rise to any question of State responsibility or reparation, may involve disagreement as regards the facts, and is hence not automatically excluded from the draft rules by the terms of article 1. There would seem to be no formal obstacle to the two States seeking conciliation under the draft rules before a complaint is filed in accordance with the ILO Constitution, but this is perhaps unlikely. On the other hand, once a complaint has been filed, the further proceedings are in the hand of ILO organs and it is difficult to see how recourse to the United Nations conciliation procedure could then be envisaged (quite apart from the question whether a bilateral departure from the constitutional provisions, as envisaged in paragraph 4 of annex II of document A/C.6/45/L.2, is permissible). In any case, the procedure of articles 26 to 29 of the ILO Constitution is, in fact, a form of fact-finding and conciliation; it may, but neet not, culminate in judicial proceedings before the International Court of Justice.

4. The second constitutional provision regarding possible inter-State disputes is that of article 37 regarding disputes relating to the interpretation of the Constitution or of any international labour Conventions. Since the disputes envisaged by that article are of a purely legal nature in which no questions of responsibility or reparation arise and in which there is no disagreement as regards the facts, they would not seem to be covered by the draft United Nations rules.

INTERNATIONAL MARITIME ORGANIZATION

[Original: English]

[10 July 1991]

1. One of the objectives of the International Maritime Organization is to provide machinery for cooperation among Governments in the field of governmental regulation and practices relating to technical matters of all kinds affecting shipping engaged in international trade. This objective can be achieved, on the one hand, through harmonization of international maritime law by the adoption of conventions and other treaty instruments. It is, on the other hand, equally important to promote a harmonized implementation and application of these instruments.

2. In this connection you may wish to note that the uniform interpretation of rules and regulations is a standing agenda item in one of the main committees of IMO, the Marine Environment Protection Committee (MEPC). In the area of safety, the Maritime Safety Committee recently considered ways and means by which the adequacy of the steps taken by Governments to give effect to Conventions and Protocols could be more effectively monitored. The Committee agreed to establish a working group to consider the "monitoring of conventions". By a decision of the MEPC at its thirty-first session last week this group has become a joint working group of the two committees referred to.

3. These measures should be seen not only as ways and means of achieving the objective mentioned above. Like the United Nations rules on conciliation of disputes, they are also an expression of the efforts to maintain and reinforce the climate of international cooperation and respect for international law. Against this background, IMO welcomes the United Nations rules for conciliation of disputes as a valuable contribution to the tools provided for peaceful settlement of disputes. To the extent that the IMO instruments do not contain provisions on conciliation, they will be kept in mind and drawn upon whenever relevant in the efforts to promote consensus and achieve agreed interpretations of the IMO international rules and standards.

UNIVERSAL POSTAL UNION

[Original: French]

[28 June 1991]

1. Conciliation is just one of the three solutions available to the Universal Postal Union (UPU) for solving problems arising between Postal Administrations of the Union with regard to the interpretation of the Acts, the other two being arbitration and the opinions of the International Bureau.

2. The Constitution of UPU provides for arbitration both as a means of interpreting the Acts and for settling some disputes arising from their application. Recourse to arbitration is not subject to a prior agreement between the Member Countries which are parties to the dispute. Arbitration is reserved for the Administrations which are members of the Union, but it is not available to the users themselves. Measures have been provided for to guarantee parity among the arbitrators and the impartiality of the awards. The latter are binding on the Administrations which are parties to the arbitration, but on them alone, and not on third States. They are, in principle, final and cannot be appealed, as the dispute cannot be referred to another arbitration board.

3. Article 112, paragraph 2, of the General Regulations authorized the International Bureau to give an opinion, at the request of the parties to the case, on questions in dispute. Recourse to such opinions implies that there is a formal dispute, thus ruling out any cases of minor differences of opinion between Postal Administrations. It should be noted that the request must emanate from the various Administrations directly involved in the dispute and not merely from one of them.

4. The solutions which have been adopted through conciliation by member countries of UPU cannot be analysed here, for they are not well known or are too specific. Moreover, according to annex II, paragraph 5, of document A/C.6/45/L.2, whether or not a dispute is referred to conciliation depends on the will of the parties. It is noted, therefore, that the conciliation rules of the United Nations do not exclude any other solution and, in particular, do not call into question the procedures provided for and used in some international organizations to settle disputes by purely amicable means.

IV. REPLIES RECEIVED FROM OTHER UNITED NATIONS ENTITIES

OFFICE FOR OCEAN AFFAIRS AND THE LAW OF THE SEA OF THE SECRETARIAT

[Original: English]

[10 July 1991]

1. The office draws attention to the comprehensive system for the settlement of disputes under the 1982 United Nations Convention on the Law of the Sea. The procedures for the settlement of disputes provided in the Convention are only applicable to the resolution of disputes concerning the interpretation or application of the Convention. These include conciliation procedures.

2. While there does not appear to be any unwarranted overlap or conflict between the draft United Nations Rules for Conciliation and the procedures under the United Nations Convention on the Law of the Sea, it may be appropriate to draw the attention of Member States to the conciliation procedures provided therein. In doing so, it may be noted that there are 159

signatories to the Convention, and 47 of the 60 ratifications or accessions required for entry into force of the Convention have been received to date.

3. In particular, attention may be drawn to the conciliation procedures in annex V which has two sections. The first section is for submission to conciliation by agreement of the parties. The second section provides for the compulsory submission to conciliation of disputes submitted in accordance with section 3 of part XV of the Convention. Both procedures allow wide flexibility as regards composition of the conciliation commission and the procedures to be followed.

4. The procedures for the settlement of disputes contained in the Convention on the Law of the Sea recognize the obligation to settle disputes by peaceful means, in accordance with Articles 2 and 33 of the Charter of the United Nations (article 279 of the Convention). While the Convention on the Law of the Sea provides compulsory and binding procedures for certain categories of disputes, the Convention also recognizes the right of States Parties to settle disputes by any peaceful means chosen by them. With respect to conciliation, paragraphs 2 and 3, article 297, are particularly important since they provide for compulsory resort to conciliation for disputes concerning the interpretation or application of the provisions of the Convention with regard to marine scientific research and with regard to fisheries in the exclusive economic zone. It may be appropriate for the General Assembly to take note of the provisions of the Convention on the Law of the Sea when reviewing the draft United Nations Rules on Conciliation, given that several disputes recently and currently submitted to third-party resolution involve law of the sea issues and the likelihood of the Convention entering into force relatively soon.

UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW

[Original: English]

[2 August 1991]

1. It is noted with appreciation that the draft United Nations Rules for the Conciliation of Disputes between States, set forth in annex I to document A/C.6/45/L.2 (draft resolution by Guatemala), are to some extent modelled on the UNCITRAL Conciliation Rules adopted by the United Nations Commission on International Trade Law at its thirteenth session in 1980 (A/35/17, paras. 105 and 106). However, most of the provisions of the draft Rules differ considerably from the UNCITRAL Conciliation Rules, which the General Assembly, in resolution 35/53 of 4 December 1980, recommended for use in cases where a dispute arises in the context of international commercial relations and the parties seek an amicable settlement of that dispute by recourse to conciliation.

2. That divergence may give rise to concern in two respects. Firstly, the very fact of having two different sets of conciliation rules promulgated by

the United Nations might, despite their different scope of application, be confusing to potential users and the public in general. Secondly and more importantly, the procedure envisaged under the draft Rules is markedly more formalistic, complicated and rigid than the informal, simple and flexible procedure envisaged under the UNCITRAL Conciliation Rules, and one might question whether such different concept of conciliation is justified by the different scope of application as defined in article 1 of the draft Rules.

3. Without going into many details at this stage, the following examples might be given in support of the latter concern. The appointment procedure provided for in chapter V of the draft Rules appears to be unduly complicated, and some of the provisions appear to be too rigid (e.g., article 4, in requiring an uneven number of conciliators; articles 6 to 8, in requiring the conciliator to be of a different nationality even in those cases where he or she would be appointed by agreement of the parties; article 9, in requiring that the successor of a sole conciliator be appointed in the same way as the original conciliator was in fact appointed). The envisaged process of conciliation is less flexible and dynamic than would seem necessary for genuine conciliation efforts, in that, for example, articles 10 and 14 (sole arbitrator) and articles 17, 28 and 30 (commission) break an organic process down into formalistic stages (i.e., first the consideration of the dispute without settlement proposals and the drawing up of final settlement terms, followed in certain cases by new proceedings on different terms). A number of provisions may be regarded as too rigid (e.g. article 27, in requiring that commission meetings take place at United Nations Headquarters, which, moreover, conflicts to some extent with the determination of the place of the first meeting under article 20(1); article 12(5), in precluding the drawing up of minutes in conciliations by a sole conciliator; articles 15 and 31, in setting a fixed deadline for the conciliator's or commission's work). Finally, the envisaged procedure does not fully reflect the principle of voluntariness or freedom of the parties which must be ensured at every stage. For example, article 24 empowers the commission to take expert advice or evidence at its own motion, that is, without consent of the parties who, however, have to bear the costs under article 47; even the indirect method of securing consent in practice by requesting deposits for such expenses does not seem to be envisaged since the draft Rules contain no provision on deposits (as do the UNCITRAL Conciliation Rules in article 18).

4. It is submitted, in conclusion, that in view of the above concerns consideration might be given to using the articles of the UNCITRAL Conciliation Rules as future model set of United Nations rules for the conciliation of disputes between States, by modifying their scope of application to cover such disputes and by adding one or more provisions appropriate for such disputes (for example, a general provision to the effect that parties and conciliators may at any time request the Secretary-General of the United Nations for advice and assistance with regard to the administrative and procedural aspects of the conciliation proceedings). If, however, a separate set of rules for disputes between States were to be deemed necessary, it is submitted that the current draft requires careful review and probably considerable revision. If such effort were to be undertaken, it might be

desirable to involve in such effort the United Nations Commission on International Trade Law so as to benefit from the experience and expertise gathered by the Commission in the process of preparing the UNCITRAL Conciliation Rules.